

Plant Closings and Mass Layoffs

Worker Adjustment and Retraining Notification Act (WARN) (29 USC §2101 *et seq.*; 20 CFR Part 639)

Who is Covered

The Worker Adjustment and Retraining Notification Act (WARN) generally covers employers with 100 or more employees, not counting those who have worked less than six months in the last 12 months and those who work an average of less than 20 hours a week. Regular federal, state, and local government entities that provide public services are not covered. Employees entitled to notice under WARN include managers and supervisors as well as hourly and salaried workers.

Basic Provisions/Requirements

WARN protects workers, their families, and communities by requiring employers to provide notification 60 calendar days in advance of plant closings and mass layoffs. Advance notice gives workers and their families some transition time to adjust to the prospective loss of employment, to seek and obtain other jobs and, if necessary, to enter skill training or retraining that will allow these workers to compete successfully in the job market. WARN also provides for notice to state dislocated worker units so that they can promptly offer dislocated worker assistance.

A covered plant closing occurs when a facility or operating unit is shut down for more than six months, or when 50 or more employees lose their jobs during any 30-day period at a single site of employment. A covered mass layoff occurs when a layoff of six months or longer affects either 500 or more workers or at least 33 percent of the employer's workforce when the layoff affects between 50 and 499 workers. The number of affected workers is the total number laid off during a 30-day (or in some cases 90-day) period.

WARN does not apply to closure of temporary facilities, or the completion of an activity when the workers were hired only for the duration of that activity. WARN also provides for less than 60 days notice when the layoffs resulted from closure of a faltering company, unforeseeable business circumstances, or a natural disaster.

Employee Rights

Workers or their representatives, and units of local government may bring individual or class action suits. U.S. district courts enforce WARN requirements. The Court may allow reasonable attorney's fees as part of any final judgment.

The Employment Law Guide is offered as a public resource. It does not create new legal obligations and it is not a substitute for the U.S. Code, Federal Register, and Code of Federal Regulations as the official sources of applicable law. Every effort has been made to ensure that the information provided is complete and accurate as of the time of publication, and this will continue. Later versions of this Guide will be offered at www.dol.gov/compliance or by calling our Toll-Free Help Line at 1-866-4-USA-DOL (1-866-487-2365).

Compliance Assistance Available

For general information about WARN, a fact sheet (www.doleta.gov/programs/factsht/warn.htm) and employer's guide (www.doleta.gov/layoff/pdf/EmployerWARN09_2003.pdf) are available from the Employment and Training Administration's Web site (www.doleta.gov).

Specific requirements of WARN may be found in the Act itself, Public Law 100-379 (29 USC 2101 *et seq.*). The Department published final regulations on April 20, 1989 in the *Federal Register*, pages 16042 to 16070 (Vol. 54, No. 75). The regulations appear at 20 CFR Part 639 (www.dol.gov/dol/allcfr/ETA/Title_20/Part_639/toc.htm). A copy of the Act and regulations may be obtained from the U.S. Department of Labor, Employment and Training Administration (ETA), Office of Adult Services, Division of Adults and Dislocated Workers, Room C-5325, 200 Constitution Avenue NW, Washington, D.C. 20210. The telephone number is 202-693-3580.

For additional assistance, contact the ETA help line at 1-877-US-2JOBS.

Penalties/Sanctions

An employer who violates the WARN provisions is liable to each employee for an amount equal to back pay and benefits for the period of the violation, up to 60 days. This may be reduced by the period of any notice that was given and any voluntary payments that the employer made to the employee.

An employer who fails to provide the required notice to the unit of local government is subject to a civil penalty not to exceed \$500 for each day of violation. The employer may avoid this penalty by satisfying the liability to each employee within three weeks after the closing or layoff.

Relation to State, Local, and Other Federal Laws

WARN does not preempt any other federal, state, or local law, or any employer/employee agreement that requires other notification or benefit. Rather, the rights provided by WARN supplement those provided by other federal, state, or local laws.